

Superseded 5/12/2015

77-27-21.8 Sex offender in presence of a child -- Definitions -- Penalties.

- (1) As used in this section:
 - (a) "Accompany" means:
 - (i) to be in the presence of an individual; and
 - (ii) to move or travel with that individual from one location to another, whether outdoors, indoors, or in or on any type of vehicle.
 - (b) "Child" means an individual younger than 14 years of age.
- (2) A sex offender subject to registration in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, for an offense committed or attempted to be committed against a child younger than 14 years of age is guilty of a class A misdemeanor if the sex offender requests, invites, or solicits a child to accompany the sex offender, under circumstances that do not constitute an attempt to violate Section 76-5-301.1, child kidnapping, unless:
 - (a)
 - (i) the sex offender, prior to accompanying the child:
 - (A) verbally advises the child's parent or legal guardian that the sex offender is on the state sex offender registry and is required by state law to obtain written permission in order for the sex offender to accompany the child; and
 - (B) requests that the child's parent or legal guardian provide written authorization for the sex offender to accompany the child, including the specific dates and locations;
 - (ii) the child's parent or legal guardian has provided to the sex offender written authorization, including the specific dates and locations, for the sex offender to accompany the child; and
 - (iii) the sex offender has possession of the written authorization and is accompanying the child only at the dates and locations specified in the authorization;
 - (b) the child's parent or guardian has verbally authorized the sex offender to accompany the child either in the child's residence or on property appurtenant to the child's residence, but in no other locations; or
 - (c) the child is the natural child of the sex offender, and the offender is not prohibited by any court order, or probation or parole provision, from contact with the child.
- (3)
 - (a) A sex offender convicted of a violation of Subsection (2) is subject to registration in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, for an additional five years subsequent to the required registration under Section 77-27-21.5.
 - (b) The period of additional registration imposed under Subsection (3)(a) is also in addition to any period of registration imposed under Subsection 77-41-107(3) for failure to comply with registration requirements.
- (4) It is not a defense to a prosecution under this section that the defendant mistakenly believed the individual to be 14 years of age or older at the time of the offense or was unaware of the individual's true age.
- (5) This section does not apply if a sex offender is acting to rescue a child who is in an emergency and life-threatening situation.